By way of numbered section 9 of the Office Action mailed May 21, 2002, the Examiner rejected Claims 1-3, 7-9 and 16 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over EP 0754796 A1 to Lickfield et al. (hereinafter "Lickfield et al.") in view of U.S. Patent No. 4,729,371 to Krueger et al. (hereinafter "Krueger et al.") and U.S. Patent No. 5,770,531 to Sudduth et al. (hereinafter "Sudduth et al."). The Examiner's rejection under 35 U.S.C. §103(a) as obvious over Lickfield et al. in view of Krueger et al. and Sudduth et al. is respectfully **traversed.**

Lickfield et al. describes a spunbond-meltblown-spunbond ("SMS") nonwoven laminate wherein the meltblown layer is formed from a polymer having a high melt flow rate, the average diameter of the meltblown fibers being less than 1.5 microns, and the laminate having a hydrohead of up to 80 cm water. As the Examiner has noted, Lickfield et al. discloses examples wherein the outer layers of the laminate may be bicomponent staple fibers but fails to explicitly teach using a bicomponent fiber in the meltblown layer. Krueger et al. discloses bicomponent meltblown webs which are molded or conformed in the presence of heat into semi-rigid cup shapes used in a disposable mask or respirator which "durably retains its [molded] shape" (column 5 line 22) after cooling of the web. See for example, DISCLOSURE OF THE INVENTION, column 2 lines 1-28; DETAILED DESCRIPTION, column 4 lines 53 to 61 and column 5 lines 16-22; and all the Claims of Krueger et al. Sudduth et al. teaches nonwoven webs, including nonwoven SMS and SMMS laminate webs, and discloses spunbond fibers having a diameter of 10 - 20 microns.

The Examiner has stated that with respect to Application claims 1-3 and 7-9 it would have been obvious to substitute the bicomponent meltblown of Krueger et al. for the meltblown layer in a laminate of Lickfield et al. having bicomponent fiber outer layers, and combine that result with the spunbond fiber size stated in Sudduth et al., in order to arrive at the present invention. The Examiner has noted that the inventive elements of Frazier air permeability in excess of 70 cubic feet/minute/foot squared and cup crush energy less than 2150 g-mm as stated in present Claim 1 are absent from such a combination of the cited art but stated, "it is reasonable to presume that said limitations would be met by the combination of Lickfield et al., Krueger et al., and Sudduth et al." and stated that this presumption is supported because the combination allegedly uses similar materials and similar production steps as the claimed invention.

As stated in M.P.E.P. § 2112, that a certain characteristic "may" be present in the prior art is not sufficient to establish the inherency of the characteristic. Rather, "the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the

reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " M.P.E.P. § 2112, citing *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). As stated in the Application the laminates of the invention have excellent drape and softness and correspondingly low cup crush values (please see page 16 lines 10 - 13 and Example 5). Applicants respectfully submit that the combination of cited art would not necessarily result in a nonwoven laminate having a Frazier air permeability in excess of 70 cubic feet/minute/foot squared and cup crush energy less than 2150 g-mm as stated in present Claim 1. Applicants point out that for the cited art combination to have excellent drape and softness and correspondingly low cup crush energy less than 2150 g-mm, the Krueger et al. web would no longer be suitable for the intended purpose stated in Krueger et al., i.e., being molded into a cup shape that "durably retains its shape". Conversely, if Lickfield et al. and Krueger et al. are combined in such a way as to maintain the intended purpose of Krueger et al., being molded or conformed in the presence of heat into a cup shape that "durably retains its shape", then it is in no way necessarily so that the combination would result in a nonwoven laminate having the required element of Frazier air permeability in excess of 70 cubic feet/minute/foot squared, and in fact quite unlikely that that combination would result in a nonwoven laminate having the required element cup crush energy less than 2150 g-mm as stated in Claim 1. Therefore, Applicants respectfully submit that it is *not* "reasonable to presume that said limitations would be met by the combination" and request the rejection of Claims 1-3, 7-9 under 35 U.S.C. §103(a) as obvious over Lickfield et al. in view of Krueger et al. and Sudduth et al. be withdrawn.

Also by way of numbered section 9 of the Office Action mailed May 21, 2002, the Examiner rejected Claim 16 under 35 U.S.C. § 103(a) over Lickfield et al. in view of Krueger et al. and Sudduth et al., stating that because Sudduth et al. discloses various numbers of meltblown layers and further discloses polypropylene meltblown, it would have been obvious to add a polypropylene meltblown layer adjacent to the multicomponent meltblown layer in the nonwoven laminate of the invention. Applicants respectfully, but strongly, disagree with the Examiner's position regarding Claim 16. Nowhere in the combination of Lickfield et al., Krueger et al. and Sudduth et al. are Applicants able to find any motivation, any teaching, any suggestion, or even any mention of the desirability of making a nonwoven laminate material comprising both a multicomponent fiber meltblown layer and a monocomponent polypropylene meltblown layer, located adjacent to each other as in Claim 16 (or, for that matter, located together in any fashion within the same nonwoven

laminate material). Applicants therefore submit that this rejection of Claim 16 is improper and should be withdrawn.

By way of numbered section 10 of the Office Action mailed May 21, 2002, the Examiner rejected Claims 10 and 17 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Lickfield et al. in view of Krueger et al. and Sudduth et al., further in view of U.S. Patent No. 3,900,678 to Aishima et al. (hereinafter "Aishima et al."). The Examiner's rejection of Claims 10 and 17 under 35 U.S.C. §103(a) as obvious over Lickfield et al. in view of Krueger et al. and Sudduth et al. and further in view of Aishima et al. is respectfully **traversed**.

The invention as claimed in Claim 10 is to the nonwoven laminate wherein the first polymeric component of the multicomponent meltblown fiber web comprises a propylene polymer having a crystallinity above 70 J/g and further wherein the second polymeric component of said meltblown fiber web comprises an amorphous polyalphaolefin having a crystallinity below about 65 J/g. The invention as claimed in Claim 17 is to the nonwoven laminate wherein the first polymeric component of the multicomponent meltblown fiber web comprises a crystalline propylene polymer and wherein the second polymeric component comprises an amorphous propylene polymer. The Examiner has stated that although Lickfield et al. fails to teach such crystalline and amorphous polymers for the bicomponent fiber, Aishima et al. teaches such, even though Aishima et al. fails to teach the actual crystallinity of the components. Applicants believe the combination including Aishima et al. with Lickfield et al. is improper.

Lickfield et al. does not teach such polymers for the multicomponent meltblown fiber because, as the Examiner has already noted, Lickfield et al. does not teach multicomponent meltblown fibers at all. Further, and importantly, Aishima et al. also does not teach multicomponent meltblown fibers. Rather, Aishima et al. discloses large staple-type fibers and textile yarns which are bicomponent fibers containing crystalline polypropylene and copolymers of propylene with another olefin, but Aishima et al. does not appear to be disclosing or suggesting multicomponent meltblown fibers at all. Please see Aishima et al. at column 5 lines 57 - 60, column 6 lines 13-20 ("15 denier") and Examples which disclose the fibers of Aishima et al. to be 15 to 30 denier, after having been originally extruded at over 100 denier and then subsequently subjected to a post-extrusion drawing process. These fibers disclosed in Aishima et al. are on the order of 45 to 90 times more massive by denier than the 7 micron (approximately 0.3 denier) multicomponent meltblown fibers of Claims 10 and 17, and these fibers of Aishima et al. are literally hundreds to thousands of times more

massive by denier than the meltblown fibers required by Lickfield et al. which average 1.5 microns or less (please see Lickfield et al. at abstract and claims, for example). Lickfield et al. states that the laminate disclosed therein, having meltblown fibers of less than 1.5 microns, has improved barrier properties over other laminates having meltblown fibers on the order of only two times larger. See Lickfield et al. at page 2 lines 22-25 and 41-49. Therefore the fibers disclosed by Aishima et al. are a wholly inappropriate substitution for the meltblown layer of Lickfield et al. and Applicants respectfully submit that this rejection of Claims 10 and 17 should be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the present claims are in form for allowance.

No additional independent or dependent claims have been added by way of this amendment and response, and therefore Applicants believe no additional fees are necessary. However, in the event any prosecutional fees are due, please charge to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (770) 587-8908.

Respectfully submitted,

CLARK ET AL.

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CERTIFICATE OF FACSIMILE TRANSMISSION

I, Robert Ambrose, hereby certify that on August 21, 2002, this document is being faxed to the United States Patent and Trademark Office, Technology Center 1700, "Before Final" facsimile machine at 703-872-9310.

By: Robert A. Ambrose

Robert A. Ambrose

Version With Marking To Show Changes Made

In the Claims

7. (Twice amended) The nonwoven [web] laminate of claim 1 wherein at least one component in each of said first, second and third layers comprises a propylene polymer and further wherein said multilayer laminate has a cup crush energy less than 2050 g-mm.

8. (Twice amended) The nonwoven [web] laminate of claim 1 wherein at least one component in each of said first, second and third layers comprises an ethylene polymer and further wherein said multilayer laminate has a cup crush energy less than 2050 g-mm.

9. (Twice amended) The nonwoven [web] laminate of claim 1 wherein said laminate has a Frazier air permeability in excess of 100 cubic feet/minute/square foot.

10. (Twice amended) The nonwoven [web] laminate of claim 3 wherein the first polymeric component of said multicomponent meltblown fiber web comprises a propylene polymer having a crystallinity above 70 J/g and further wherein the second polymeric component of said meltblown fiber web comprises an amorphous polyalphaolefin having a crystallinity below about 65 J/g.

11. (Twice amended) The nonwoven [web] laminate of claim 3 wherein said second and third spunbond layers are extensible and further wherein the first polymeric component of said multicomponent meltblown fiber web comprises an elastic polyolefin and wherein said second component of the multicomponent meltblown fiber web comprises an elastic polymer.

12. (Amended) The nonwoven [web] laminate of claim 11 wherein the second component of the multicomponent meltblown fiber web comprises an elastic polyolefin.

13. (Amended) The nonwoven [web] laminate of claim 11 wherein the second component of the multicomponent meltblown fiber web comprises a blend of a polyolefin and a non-olefin thermoplastic elastomer.

14. (Amended) The nonwoven [web] laminate of claim 11 wherein the second component of the multicomponent meltblown fiber web comprises an elastic non-olefin thermoplastic elastomer.

15. (Amended) The nonwoven [web] laminate of claim 11 wherein the second component of the multicomponent meltblown fiber web comprises a block copolymer having a styrenic moiety end block and an elastomeric mid-block.

16. (Twice amended) The nonwoven [web] laminate of claim 3 further comprising a fourth layer comprising a nonwoven web of monocomponent polypropylene meltblown fibers and further wherein said fourth layer is located between said second and third layers and adjacent said first layer.

17. (Amended) The nonwoven [web] laminate of claim 16 wherein the first polymeric component comprises a crystalline propylene polymer and wherein the second polymeric component comprises an amorphous propylene polymer.